

Appl. No. 09/814,386
Amendment/Response
Reply to Office Action of
December 22, 2003

Page 9 of 12

REMARKS/DISCUSSION OF ISSUES

Claims 1, 3, 5-14 are presently pending. All pending claims have been amended.

Claims are amended for non-statutory reasons, to place them in standard U.S. patent practice format.

Amendments to the Specification

The objections to the specification have been addressed, and as such, it is respectfully submitted that these objections are moot in view of the present response, and thus should be withdrawn.

Claim of Priority and Drawings

Applicants gratefully note the acknowledgement of the claim of foreign priority including receipt of all certified documents, and the approval of the drawings.

Rejections

Claims 1, 3, 9 and 13 were rejected under the judicially created doctrine of double patenting in view of the referenced claims of U.S. 6,556,838 and 6,611, 690.

Independent claims 1, 3, 9 and 13 each have been amended to feature:
"...measurements of a time rate of change of received signal to interference ratio..."

This feature is useful in determining a rate of adjustment of the output power. It is respectfully submitted that this rejection is moot in view of the present amendments to these claims.

Appl. No. 09/814,386
Amendment/Response
Reply to Office Action of
December 22, 2003

Page 10 of 12

Rejections under 35 U.S.C. § 102(a)

The Office rejects claims 1-3, and 6 under 35 USC § 102(a) in view of *Naghian* (WO 00/004649). For at least the reasons set forth below, it is respectfully submitted that these claims are allowable over the cited reference.

To properly establish a *prima facie* case of anticipation, *all* of the claimed elements must be found in the prior art. It follows, therefore, that if a *single* claimed element is not found in the prior art, a *prima facie* case of anticipation cannot properly be established.

Independent claims 1, 3, 9 and 13 each feature:

"...measurements of a time rate of change of received signal to interference ratio..."
This feature is useful in determining a rate of adjustment of the output power as set forth in these independent claims and as set forth in detail in the filed application.

Applicants respectfully submit that the applied art lacks at least the features of claims 1, 3, 9 and 13. First it is noted that it is the time rate of change of received signal to interference ratio that is featured in claims 1, 3, 9 and 13. The reference to *Naghian* power control steps in the command bit register 1-6 that are taken into account when determining the power of the radio transmitter; and the change history of the register comprises data of previous power and control commands. Moreover, the reference to *Naghian* discloses that the optimum power levels of different power control service classes can be determined on the basis of the mean of previous power control steps **or the ratio of the measured value (SIR_{real}) and the target (SIR_{target}) of the signal-to-interference ratio**. As such, it is the ratio of the real SIR value versus the target SIR value that is used in determining the optimum power levels. (Kindly refer to page 6, lines 10-34 of the applied reference to *Naghian* for support for these assertions.)

Clearly, therefore, the applied reference to *Naghian* lacks at least one of the

Appl. No. 09/814,386
Amendment/Response
Reply to Office Action of
December 22, 2003

Page 11 of 12

features of each of independent claims 1, 3, 9 and 13. Accordingly, it is respectfully submitted that these claims and the claims that depend therefrom are allowable over the applied art. Allowance is earnestly solicited.

Rejections under 35 U.S.C. § 103(a)

Claims 2, 5, 10, 12 and 15 were rejected under 35 U.S.C. § 103(a) relying on the combination of *Naghian* discussed above, in view of *Kaneda, et al.* (US Patent 6,343,218).

Claim 2 has been cancelled. Claims 5, 10, 12 and 15 depend directly or indirectly from the independent claims discussed above. As such, these claims contain additional features to those of their respective independent claims, and therefore are allowable over the applied art. Accordingly, while in no way conceding to the propriety of this rejection, and without conceding the propriety of the combination of references, it is respectfully submitted that because the reference to *Naghian* lacks at least the teachings of the features of independent claims 1, 3, 9 and 13 discussed above, it cannot serve as the basis for a *prima facie* case of obviousness. As such, these rejections are improper and should be withdrawn.

Conclusion

In view of the foregoing, it is respectfully requested that all objections and rejections be withdrawn. Allowance of all pending claims is earnestly solicited.

In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact William S. Francos, Esq. (Reg. No. 38,456) at (610) 375-3513 to discuss these matters.

Except as otherwise stated in the previous Remarks, applicant notes that each of the amendments have been made to place the claims in better form for U.S. practice or to clarify the meaning of the claims; and not to distinguish the claims from

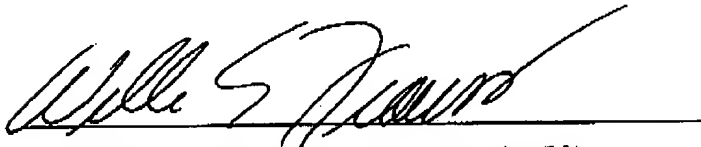
Appl. No. 09/814,386
Amendment/Response
Reply to Office Action of
December 22, 2003

Page 12 of 12

applied art, otherwise narrow the scope, or to comply with other statutory provisions.
Applicant reserves all entitled rights under the Doctrine of Equivalents.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted on behalf of:
Philips Electronics North America Corp.



By: William S. Francos (Reg. No. 38,456)

March 22, 2004

Volentine Francos, PLLC
Two Meridian Blvd.
Wyomissing, PA 19610
(610) 375-3513